THE TEXT OF THE PROPOSED RULE IS:
40E-8.021 Definitions.

(1) through (7) No Change.

(8) Northeast Subregion of Florida Bay (hereinafter "Florida Bay") – means the bays, basins, and sounds within Taylor Slough and the C-111 Canal basin watersheds, including Long Sound, Little Blackwater Sound, Blackwater Sound, Buttonwood Sound, Joe Bay, Little Madeira Bay, Madeira Bay, Terrapin Bay, Eagle Key Basin, and other open waters of Florida Bay northeast of a boundary line between Terrapin Bay and Plantation Key (see Map 2).

(9)~~(8)~~ Harm – means the temporary loss of water resource functions, as defined for consumptive use permitting in Chapter 40E-2, F.A.C., that results from a change in surface or ground water hydrology and takes a period of one to two years of average rainfall conditions to recover.

(10)~~(9)~~ Indirect Withdrawal – means the withdrawal of water from a water source for a consumptive use that receives surface water or ground water from a MFL water body or is tributary to a MFL water body.

(11)~~(10)~~ Lake Istokpoga – means the lands and waters contained within the Lake below 40.0 feet NGVD, the top of the U.S. Army Corps of Engineers' regulation schedule.

(12)~~(11)~~ Lake Okeechobee – means the lands and waters contained within the perimeter of the Hoover Dike.

(13)~~(12)~~ LEC Plan – means the Lower East Coast Regional Water Supply Plan – May 2000, including all three volumes.

(14)~~(13)~~ Lower West Coast Aquifers – means the lower Tamiami aquifer, sandstone aquifer and the mid-Hawthorn aquifer that occur within Charlotte, Hendry,

Glades, Lee and Collier counties.

(15)~~(14)~~ LWC Plan – means the Lower West Coast Regional Water Supply Plan – April 2000, including all three volumes.

(16)~~(15)~~ Minimum Flow – means a flow established by the District pursuant to Sections 373.042 and 373.0421, F.S., for a given water body and set forth in Parts II and III of this chapter, at which further withdrawals would be significantly harmful to the water resources or ecology of the area.

(17)~~(16)~~ Minimum Flow and Level Exceedance – means to fall below a minimum flow or level, which is established in Parts II and III of this chapter, for a duration greater than specified for the MFL water body.

(18)~~(17)~~ Minimum Flow and Level Violation – means to fall below a minimum flow or minimum level, which is established in Parts II and III of this chapter, for a duration and frequency greater than specified for the MFL water body. Unless otherwise specified herein, in determining the frequency with which water flows and levels fall below an established MFL for purposes of determining a MFL violation, a “year” means 365 days from the last day of the previous MFL exceedance.

(19)~~(18)~~ Minimum Level – means the level of groundwater in an aquifer or the level of surface water established by the District pursuant to Sections 373.042 and 373.0421, F.S., in Parts II and III of this chapter, at which further withdrawals would be significantly harmful to the water resources of the area.

(20)~~(19)~~ MFL Water Body – means any surface water, watercourse, or aquifer for which an MFL is established in Part II or III of this chapter.

(21)~~(20)~~ Northwest Fork of the Loxahatchee River: Means those areas defined below:

(a) Northwest Fork of the Loxahatchee River that has been federally designated as Wild, Scenic and Recreational uses (as defined in the Loxahatchee River Wild and Scenic River Management Plan 2000) (see Map 1, incorporated herein), including the river channel that extends from river mile 6.0 (latitude 26.9856, longitude 80.1426) located near the eastern edge of Jonathan Dickinson State Park and continues upstream to the G-92 structure (latitude 26.91014, longitude 80.17578), including the C-14 Canal. The river channel includes the physical water flow courses and adjacent floodplain up to the limits of the floodplain swamp and wetlands within Riverbend Park, as determined by state wetland delineation criteria;

(b) Cypress Creek which extends westward from river mile 10.6 to the intersection of Gulf Stream Citrus Road (latitude 26.96484, longitude 80.1855) located approximately one mile west of the Florida Turnpike and includes its natural river channels and contiguous floodplain as determined by state wetland delineation criteria;

(c) Kitching Creek which extends from river mile 8.1 (latitude 26.9908, longitude 80.1540) northward through Jonathan Dickinson State Park to north of Bridge Road (latitude 27.05513, longitude 80.17580), including its natural river channels and contiguous floodplain as determined by state wetland delineation criteria; and

(d) Hobe Grove Ditch which extends west from river mile 9.1 (latitude 26.9854, longitude 80.1594) westward to the Hobe-St. Lucie Conservancy District pump station outfall (latitude 26.5908, longitude 80.1031) including

its natural river channels and contiguous floodplain as determined by state wetland delineation criteria.

(22)~~(21)~~ Operations – means activities taken by the District for the movement of surface water through works of the District pursuant to Chapter 373, F.S.

(23) Parts per thousand (ppt) – means in the measurement of salinity the total amount of salt in grams per 1000 grams of water. Practical salinity units (psu) similarly means a measure of salinity, but one that is based on conductivity of water at a standard temperature and pressure. Both terms are used interchangeably for purposes of this rule.

(24)~~(22)~~ Prevention Strategy(ies) – means the structural and non-structural actions approved by the District in regional water supply plans, pursuant to Section 373.0421, F.S., or by rule, for areas where MFLs are currently not violated, but are projected to be violated within twenty (20) years of the establishment of the minimum flow or level, if said prevention strategies are not implemented.

(25)~~(23)~~ Recovery Strategy(ies) – means the structural and non-structural actions approved by the District in regional water supply plans, pursuant to Section 373.0421, F.S., or by rule, for areas where MFLs are currently violated.

(26)~~(24)~~ Regional Water Supply Plan – means a plan approved by the District pursuant to Section 373.0361, F.S.

(27)~~(25)~~ St. Lucie River North Fork – means the surface waters that extend from the Gordy Road Bridge structure (state plane coordinates, x851212.831, y1116105.7470), combined with tributary contributions below Gordy Road and collectively flow south to the confluence with the C-24 canal (state plane coordinates, x873,712.20, y1064,390.41).

(28)~~(26)~~ St. Lucie River South Fork – means the surface waters that extend from the culverts located at state plane coordinates x902, 512.67, y1,001,799.91, north to the confluence of the river and the St. Lucie Canal (C-44).

(29)~~(27)~~ St. Lucie Estuary – means the surface water body south of the confluence of the St. Lucie River North Fork and C-24, north of the confluence of the St. Lucie River South Fork and C-44, and west of the western boundary of the Intracoastal Waterway, exclusive of canals.

(30)~~(28)~~ Serious Harm – means the long-term loss of water resource functions, as addressed in Chapters 40E-21 and 40E-22, F.A.C., resulting from a change in surface or ground water hydrology.

(31)~~(29)~~ Significant Harm – means the temporary loss of water resource functions, which result from a change in surface or ground water hydrology, that takes more than two years to recover, but which is considered less severe than serious harm. The specific water resource functions addressed by a MFL and the duration of the recovery period associated with significant harm are defined for each priority water body based on the MFL technical support document.

Specific Authority §§ 9, 10 P.L. 83-358, 373.044, 373.113, 373.119, 373.129, 373.136, 373.171 FS. Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS. History–New 9-10-01, Amended 11-11-02, 4-1-03, 1-19-06.

PART II MFL CRITERIA FOR LOWER EAST COAST REGIONAL PLANNING AREA

40E-8.221 Minimum Flows and Levels: Surface Waters.

(1) through (4) No Change.

(5) Florida Bay

(a) The minimum flow is that necessary to maintain salinity as described in subsection (b), below. A net discharge into northeastern Florida Bay of 105,000 acre-feet of water over a 365-day period (a running total measured at West Highway Creek, at $25^0$14'33" north and $80^0$26'50" west; Trout Creek, at $25^0$12'53" north and $80^0$32'01" west; Mud Creek, at $25^0$12'09" north and $80^0$35'01" west; Taylor River, at $25^0$11'27" north and $80^0$38'21" west; and McCormick Creek, at $25^0$10'03" north and $80^0$43'55" west), is estimated to be necessary to maintain salinity as described in subsection (b), below.

(b) An exceedance of the minimum flow criteria will be deemed to occur when the average salinity over 30 or more consecutive days exceeds 30 parts per thousand at the Taylor River salinity monitoring station, located at 25^0 13' 29" north and 80^0 39' 10" west. Multiple events of 30 or more day periods with salinity greater than 30 parts per thousand, occurring within a single calendar year, are considered as a single exceedance.

(c) A minimum flow violation occurs when an exceedance occurs during each of two consecutive years, more often than once in a ten-year period. By this definition, three consecutive years of exceedances constitute a violation.

Specific Authority §§ 9, 10 P.L. 83-358, 373.044, 373.113, 373.119, 373.129, 373.136, 373.171 FS. Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS. History–New 9-10-01, Amended 4-1-03.

Table 1. Minimum water levels, duration and return frequencies for key water management gages located within the Everglades [1,2,3]

Area	Key Gage	Soil Type & MFL Criteria	Return Frequency (years) [3]-[4]
WCA-1 1-7	1-7	Peat[1]	1 in 4
WCA-2A	2A-17	Peat	1 in 4
WCA-2B	2B-21	Peat	1 in 4
WCA-3A North	3A-NE	Peat	1 in 2
WCA-3A North	3A-NW	Peat	1 in 4
WCA-3A North	3A-2	Peat	1 in 4
WCA-3A North	3A-3	Peat	1 in 3
WCA-3A Central	3A-4	Peat	1 in 4
WCA-3A South	3A-28	Peat	1 in 4
WCA-3B	3B-SE	Peat	1 in 7
Rotenberger WMA	Rotts	Peat	1 in 2
Holeyland WMA	HoleyG	Peat	1 in 3
NE Shark Slough	NESRS-2	Peat	1 in 10
Central Shark Slough	NP-33	Peat	1 in 10
Central Shark Slough	NP-36	Peat	1 in 7
Marl wetlands east of Shark Slough	NP-38	Marl[(2)]	1 in 3
Marl wetlands west of Shark Slough	NP-201 G-620	Marl	1 in 5
Rockland marl marsh	G-1502	Marl	1 in 2
Taylor Slough	NP-67	Marl	1 in 2

(1) = MFL Criteria for Peat-forming wetlands: Water levels within wetlands overlying organic peat soils within the water conservation areas, Rotenberger and Holeyland wildlife management areas, and Shark River Slough (Everglades National Park) shall not fall 1.0 feet or more below ground surface, as measured at a key gage, for one or more days during a period in which the water level has remained below ground for at least 30 days, at specific return frequencies shown above.

(2) = MFL Criteria for Marl-forming wetlands: Water levels within marl-forming wetlands that are located east and west of Shark River Slough, the Rocky Glades, and

Taylor Slough within the Everglades National Park, shall not fall 1.5 ft. below ground surface, as measured at a key gage, for one or more days during a period in which the water level has remained below ground for at least 90 days, at specific return frequencies for different areas, as shown above.

(3) = Return frequencies were developed using version 3.7 of the South Florida Water Management Model (SFWMM) and are the same as those stated on page 168, Table 44 of the adopted LEC Regional Water Supply Plan (May 2000).

(4) = MFL depth, duration and return frequencies are based on historic rainfall conditions for the 31 year period of record from 1965 to 1995.

PART IV IMPLEMENTATION

40E-8.421 Prevention and Recovery Strategies.

(1) through (8) No Change.

(9) Florida Bay. Under existing system conditions, violations of the MFL are not anticipated to occur. Therefore, a prevention strategy is contained in this rule. In addition to the prevention strategies identified in Rule 40E-8.421(1), the following actions will be taken:

(a) Modifications to operations for improved management of freshwater discharges to the headwaters of Taylor Slough and the southeast Everglades should consider the MFL, in coordination with:

1. The Modified Waters Deliveries to Everglades National Park project and the C-111 Canal project, and any associated operational and construction plans pursuant to these projects;

2. The C-111 Canal Spreader Acceler8 and CERP Projects;

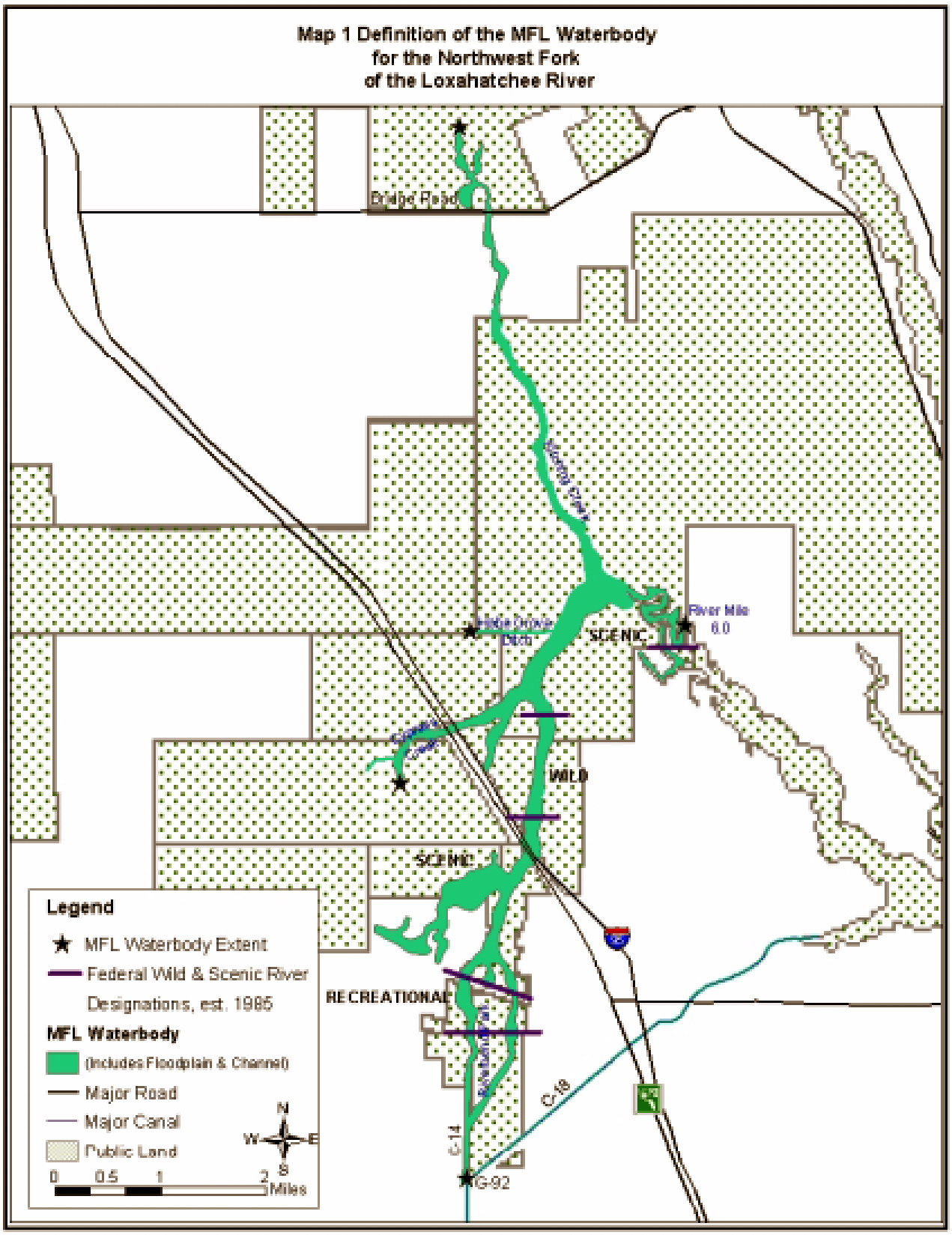
3. The CERP Florida Bay and Florida Keys Feasibility Study.

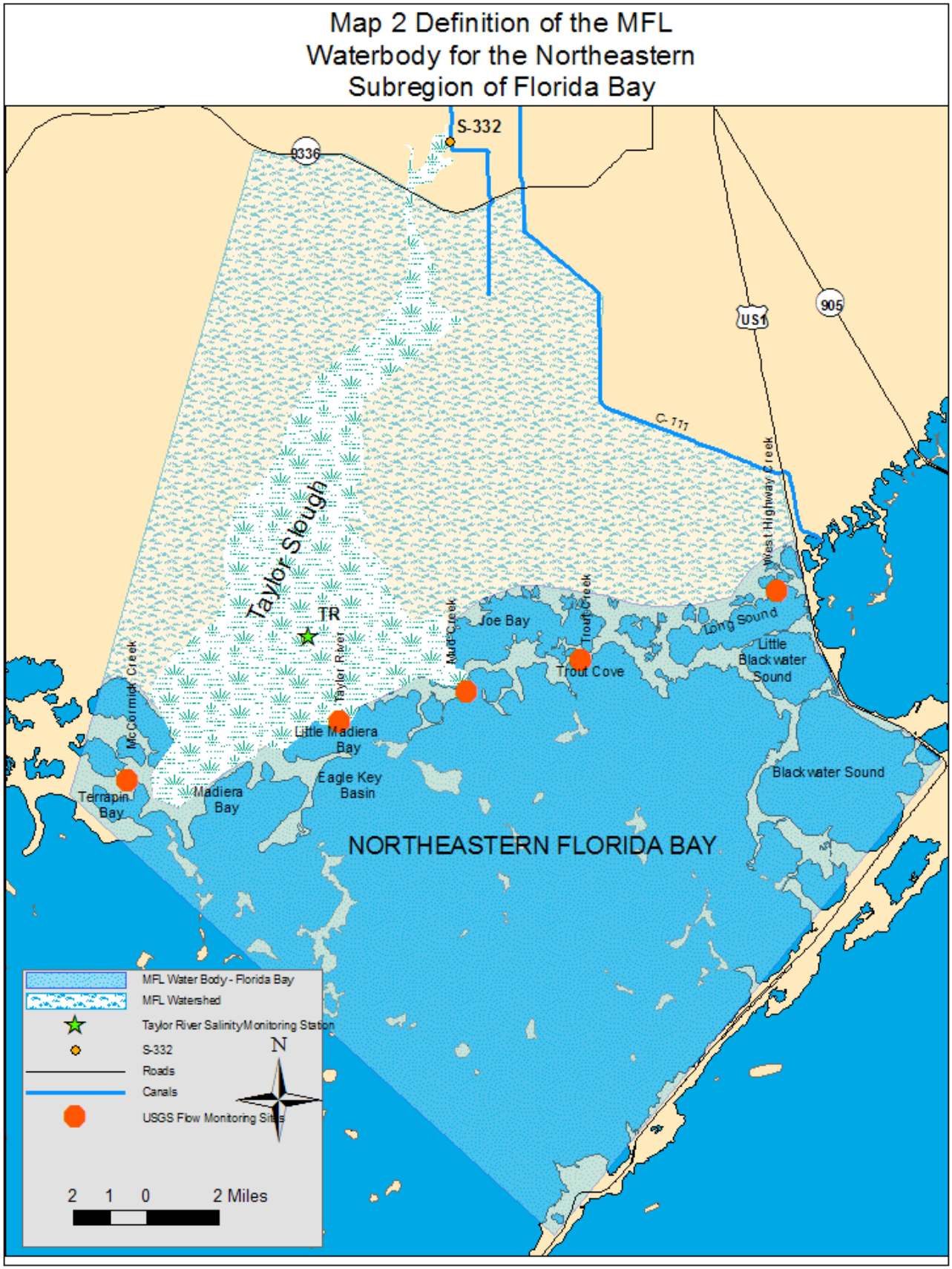
(b) The SFWMD, in cooperation with other management agencies, will continue field monitoring and research to assess salinity, water level, and flow conditions and biological resource response in the region specified above.

(c) The update of the LEC Plan (anticipated in 2006) will contain a description of the elements, scheduling, and funding of the research and monitoring program and additional details of the prevention strategy for Florida Bay pursuant to Section 373.0421, F.S.

(d) These MFL criteria will be reviewed and may be revised no later than five years after adoption based on new information from the CERP Florida Bay and Florida Keys Feasibility Study or other scientific data that may become available. After the initial review, the MFL criteria will be reviewed at subsequent five-year intervals in conjunction with updates to the LEC Plan.

Specific Authority §§ 9, 10 P.L. 83-358, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS. History–New 9-10-01, Amended 11-11-02, 4-1-03, 1-19-06.


Map 1 Definition of the MFL Waterbody
for the Northwest Fork
of the Loxahatchee River
Bridge Road
Boynton Canal
Middle Creek
Dam
River Mile
8.0
SCENIC
WILD
SCENIC
RECREATIONAL
C-18
C-14
G-92
Legend
MFL Waterbody Extent
Federal Wild & Scenic River
Designations, est. 1985
MFL Waterbody
(Includes Floodplain & Channel)
Major Road
Major Canal
Public Land
N
W
E
S
0
0.5
1
2
Miles


Map 2 Definition of the MFL Waterbody for the Northeastern Subregion of Florida Bay
S-332
9336
US1
905
C-111
West Highway Creek
Taylor Slough
TR
Taylor River
McCormick Creek
Mud Creek
Joe Bay
Trout Creek
Trout Cove
Long Sound
Little Blackwater Sound
Little Madiera Bay
Eagle Key Basin
Terrapin Bay
Madiera Bay
Blackwater Sound
NORTHEASTERN FLORIDA BAY
MFL Water Body - Florida Bay
MFL Watershed
Taylor River Salinity Monitoring Station
S-332
Roads
Canals
USGS Flow Monitoring Sites
N
2 1 0 2 Miles